

OCT 12 2011

This facsimile message and its contents are legally privileged and confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message and its contents is strictly prohibited. If you have received this telecopy in error, please notify us immediately by telephone and return the original message to us at the address shown below via the Postal Service. Thank You.

ALSTON & BIRD LLP

275 Middleton Road, Suite 150
Menlo Park, CA 94025-4004
650-838-2000
Fax: 650-838-2001

TELECOPY**PLEASE DELIVER AS SOON AS POSSIBLE****Date:**

October 12, 2011

Recipient:

Lakia Tongue, Examiner

Company:

USPTO

Fax Number:

571-273-8300

Voice Number:

571-272-2921

Sender:

George L. Fox

Message:

Examiner Tongue.

Thank you for agreeing to an interview in connection with US Patent Application No. 10/552,957. During the interview, I would like to discuss the pending § 102 rejections and § 112 new matter rejection. With regard to the § 102 rejections, the non-final Office Action mailed on June 21, 2011, states "the Examiner is of the opinion the claim is drawn to an immunomodulatory product comprising *Bifidobacterium breve* strain I-2219 as is the immunomodulatory product of the prior art." See, e.g., page 7, 2d ¶. I would like to discuss your basis for asserting that the claimed product comprises *Bifidobacterium breve* strain I-2219, despite the fact that the process recited in the claim includes the step of "removal of the *Bifidobacterium* from the aqueous substrate." Regarding the § 112 new matter rejection, I would like to discuss why the recently added limitation "wherein the excluded fraction at the end of the chromatography is characterized by the absence of intact *Bifidobacterium* cells" would not be implicit to one skilled in the art in light of the same removal step.

Number of Pages: (including cover page)

1

IF NOT RECEIVED PROPERLY, PLEASE NOTIFY ME IMMEDIATELY AT 650-838-2048

USER CODE:	FOXGE	REQUESTED BY:	FOXGE
CLIENT/MATTER:	033339/301225	FAX OPERATOR:	